

# **Organizational Structure and Functions**





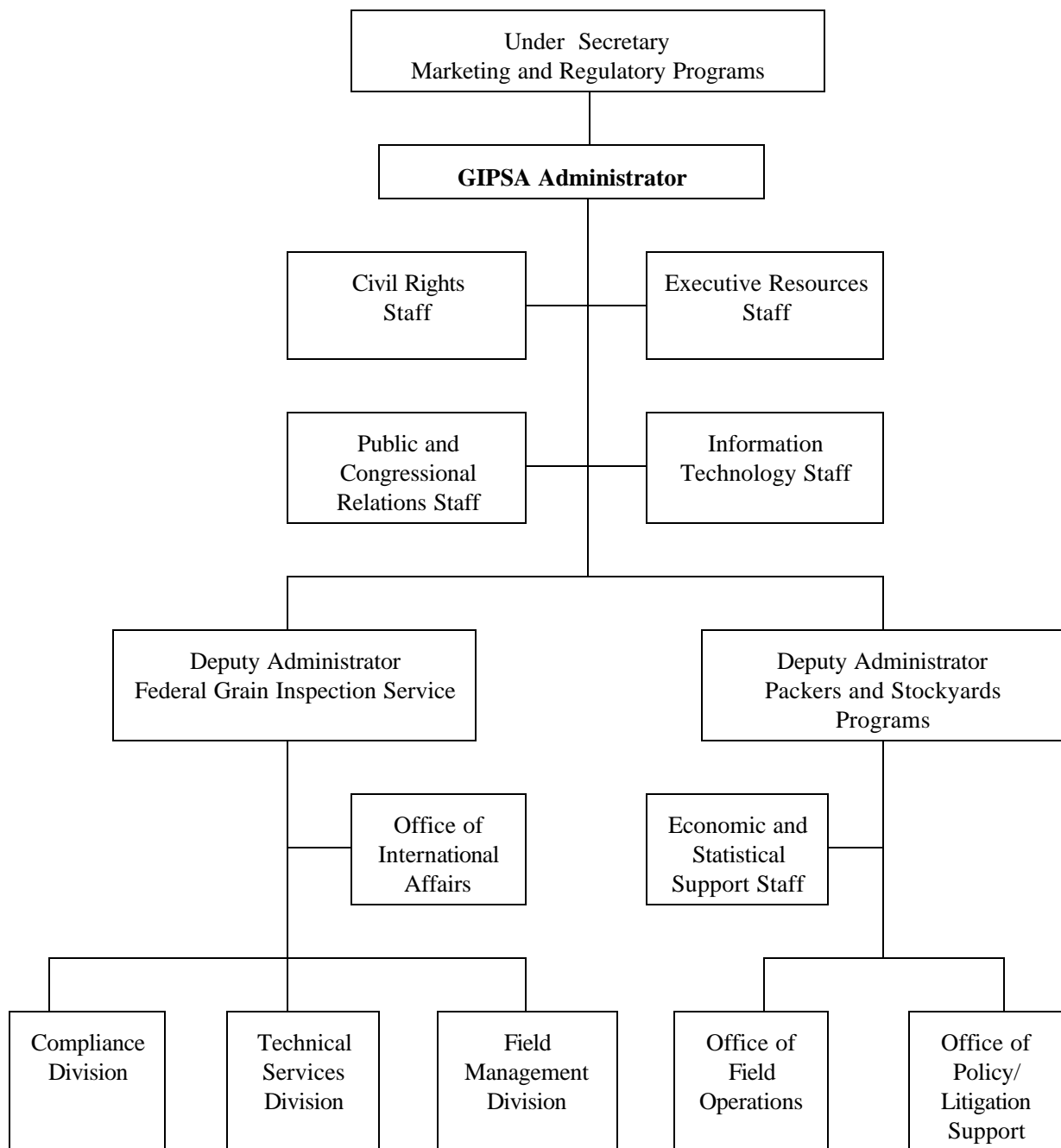
## **Organizational Structure and Functions**

The Grain Inspection, Packers and Stockyards Administration (GIPSA) works to ensure a productive and competitive global marketplace for U.S. agricultural products.

One of GIPSA's programs, the Packers and Stockyards Programs (P&SP), promotes fair and competitive markets for livestock, meat, and poultry by enforcing the Packers and Stockyards Act of 1921. P&SP provides financial protection to producers and promotes fair and competitive markets within its regulatory framework. The other program, the Federal Grain Inspection Service (FGIS), provides the U.S. grain market with Federal quality standards and a uniform system for applying them. FGIS has both service and regulatory roles, and was founded to provide impartial, accurate quality and quantity measurements to create an environment that promotes fairness and efficiency.

The existence of GIPSA as an impartial, third-party entity helps ensure a fair and competitive marketing system for all involved in the merchandising of livestock, meat, and poultry, and grain and related products.

## GIPSA's Organizational Structure



## **Packers and Stockyards Programs**

### **Authorities**

GIPSA's Packers and Stockyards Programs (P&SP) administers the P&S Act of 1921, as amended and supplemented (P&S Act). P&SP also carries out the Secretary's responsibilities under Section 1324 of the Food Security Act of 1985. P&SP is responsible for the Truth-in-Lending Act, the Fair Credit Reporting Act, and the Agriculture Fair Practices Act, as each relates to persons and firms subject to the P&S Act. Additionally, P&SP responds to inquiries submitted under the Freedom of Information Act.

### **Responsibilities**

P&SP is responsible for administering the P&S Act, which prohibits unfair, deceptive, and fraudulent practices by market agencies, dealers, stockyards, packers, swine contractors, and live poultry dealers in the livestock, poultry, and meatpacking industries. The P&S Act makes it unlawful for a regulated entity to engage in unfair, unjustly discriminatory, or deceptive practices. Packers, live poultry dealers, and swine contractors are also prohibited from engaging in specific anti-competitive practices.

Pursuant to the Act, the Secretary has authority over market agencies, dealers, stockyards, packers, swine contractors, and live poultry dealers in the livestock, poultry, and meatpacking industries. The Act imposes requirements on the regulated industries, such as registration of market agencies and dealers; bonding of market agencies, packers (except those whose average annual livestock purchases do not exceed \$500,000), and dealers; and prompt payment requirements. To protect the unpaid sellers of livestock, packers are subject to trust provisions which require that all livestock purchased in cash sales, and all inventories of, or receivables or proceeds from meat, meat food products, or livestock products derived therefrom, be held in trust for the unpaid sellers until payment is made in full. There is a similar provision for live poultry dealers. Swine contractors are not subject to the payment provisions.

P&SP uses its statutory authority to investigate alleged and potential violations of the P&S Act and regulations, and prosecutes violations detected through those investigations, either directly through administrative actions or through referral to the Department of Justice.

Under the Food Security Act of 1985, States may establish central filing systems to pre-notify buyers, commission merchants, and selling agents of security interests against farm products. GIPSA administers the section of the statute commonly referred to as the "Clear Title" provision, and certifies qualifying State systems.

### **Activities**

The principal activities involved in administering the P&S Act include:

- Registering individuals and firms who operate subject to the P&S Act,
- Ensuring that registrants obtain and maintain the proper level of bond coverage,
- Ensuring the integrity of packer and live poultry trusts,
- Analyzing trust and bond claims,
- Investigating the financial conditions and payment practices of registrants, packers, and live poultry dealers,
- Investigating the procurement practices of registrants, packers, live poultry dealers, and swine contractors,
- Investigating marketing practices at stockyards, auction markets, buying stations, Internet sales, video sales, and terminal markets,
- Testing scales at auction markets, stockyards, buying stations, poultry processing plants, packing plants, and at any location where scales are used to weigh feed, when feed is a factor affecting payment,
- Investigating the competitive practices of registrants, packers, live poultry dealers, and swine contractors, and
- Monitoring structural changes in the livestock, meat, and poultry industries.

**Farm Bill --  
Additional Authority**

The Farm Security and Rural Investment Act of 2002 (known as the Farm Bill) contained a number of provisions that directly impact P&SP activities. These include provisions that deal with GIPSA's jurisdiction over swine contractors, the rights of contractual parties to discuss terms of the contracts with others, and protection for purchasers of farm products.

- The Farm Bill amended the P&S Act by adding definitions for "swine contractor," "swine production contract," and "swine production contract grower" to sections of the P&S Act, thus extending the jurisdiction of certain provisions of the P&S Act to include swine contractors.

- In general, the amendment prohibits certain activities of swine contractors, requires swine contractors to maintain certain records, and holds each swine contractor responsible for the acts of its employees, officers, and agents. It also creates a private right of action to sue swine contractors in Federal District Court under the P&S Act.
- Swine contractors are subject to all of the prohibitions contained in Section 202 of the P&S Act (the competition provisions), which makes it unlawful for any packer or swine contractor to:
  - Use any unfair, unjustly discriminatory, or deceptive practice,
  - Give any unreasonable preference or advantage to any person or locality,
  - Apportion supply if apportioning supply restrains commerce or creates a monopoly,
  - Manipulate or control prices.
- The amendment established no new bonding or registration requirements, no trust provision for swine production contract growers, nor any prompt payment requirements for swine contractors.
- The amendment helps growers in three ways:
  - First, swine contractors are subject to the P&S Act and P&SP will investigate all complaints. If P&SP finds evidence of a violation, it will take appropriate action. If an administrative action is initiated, the swine contractor could be ordered, by an administrative law judge, to stop violating the law and could be assessed up to \$11,000 in civil penalties per violation. By law, civil penalties are paid to the U.S. Government.
  - Second, if a grower believes that a swine contractor has violated the P&S Act relating to its swine production contract, the grower can sue the contractor by filing suit in Federal District Court alleging that the contractor has violated the P&S Act. If the grower wins the lawsuit, the contractor will have to pay the grower the full amount of damages caused by the contractor's violation of the P&S Act.
  - Third, P&SP will engage in oversight of swine contractors as part of its enforcement of the new amendment. P&SP regularly investigates packers and will include a review of swine contractors in investigations.

- The Farm Bill grants the parties to contracts for the production or sale of livestock or poultry the right to discuss terms or details of the contracts. Specifically, parties to these contracts have the right to discuss the terms of the contracts with Federal or State agencies, or with the parties' legal advisor, lender, accountant, landlord, executive or manager, or immediate family member. This right may provide the basis for making the determination of an "unfair practice" under the P&S Act. For example, a swine contractor, packer, or live poultry dealer, regulated under the P&S Act, may be determined to have committed an "unfair practice" if it fails to provide this right. The right is not retroactive; it applies only to contracts entered into, amended, renewed, or extended after enactment of the Farm Bill (May 13, 2002).
- The Farm Bill amended the section of the Food Security Act of 1985 that provides financial protection for purchasers of farm products covered by liens by relaxing some signature requirements, clarifying terms to make them consistent with terms in the Uniform Commercial Code, and facilitating electronic filing of lenders' security interests. These are technical modifications that will improve the operation of the program.

## Investigations

GIPSA's P&SP investigative and enforcement activities include Competition, Trade Practices, and Financial Program Protections. In FY 2002, these Programs undertook 1,435 investigations, and closed 1,238. Investigations are conducted as the result of complaints or information received alleging that violations of the P&S Act have occurred, and as follow-ups to previous investigations that disclosed violations of the P&S Act to assure that violations have been corrected. Other investigations are initiated by P&SP to assure subject firms are operating in compliance with the P&S Act. In FY 2002, 1,238 investigations were completed by P&SP. When an investigation discloses a subject firm has violated the P&S Act, either the firm is placed on notice of the violation by certified letter to correct the violation or an investigation report containing evidence of the violation is prepared for possible issuance of an administrative complaint. Follow-up investigations are scheduled for letters of notice to determine that compliance with the P&S Act has been achieved. In FY 2002, 193 letters of notice of violations were sent to subject firms, and 45 investigation reports were prepared by regional offices and submitted to Washington headquarters for potential formal complaints. Twenty-three formal administrative complaints were issued in FY 2002. The table following shows a breakdown of the investigations closed in FY 2002, and the number and percentage of closed investigations that were completed and closed within 1 year of the date the investigation began.



### **Investigations**

<b>Unit</b>	<b>Number Closed</b>	<b>Number Closed in a Year</b>	<b>Percent Closed in a Year</b>
Competition	37	28	76
Financial	529	467	88
Trade Practice	672	626	93
Total	1,238	1,121	91

When P&SP determines that a potentially serious situation exists that may cause imminent harm to livestock producers, rapid response teams are immediately deployed to investigate the matter. In FY 2002, 40 rapid response investigations were initiated. These investigations resulted in \$4,285,168 recovered for the benefit of livestock producers at a cost of \$626,770 in salary and travel expenses. Total recovery to producers as the result of P&SP investigations in FY 2002 was \$37.2 million.

### **Toll-Free Hotline**

GIPSA maintains a toll-free number (1-800-998-3447) to allow members of the livestock and poultry industries and the public to report complaints and share concerns. During FY 2002, GIPSA received 118 hotline complaints from livestock producers, poultry growers, and the public. Each call was referred to the appropriate regional office for review, followup, and appropriate action on complaints reporting substantiated violations of the P&S Act.

### **P&SP Structure**

As of September 30, 2002, P&SP had 169 full-time employees. P&SP has a headquarters office in Washington, D.C. and three regional field offices in Atlanta, Georgia; Denver, Colorado; and Des Moines, Iowa.

The regional field offices conduct most day-to-day industry monitoring and surveillance, and investigations. Each regional office maintains a high level of expertise in one or more species of livestock. The Atlanta Regional Office has expertise in poultry and takes the lead on all national poultry investigations. The Des Moines office has expertise in hogs and takes the lead on all national hog investigations. The Denver office has expertise in cattle and lambs and takes the lead on all national cattle or lamb investigations.

Resident agents, reporting to regional field offices, are located throughout the country to provide additional coverage across the Nation, with each agent located to provide core services in his or her assigned area.

## **P&SP Regional Offices**

### **Poultry:**

Atlanta Regional Office  
Richard Russell Building  
75 Spring Street, Suite 230  
Atlanta, GA 30303  
Regional Supervisor: Elkin Parker  
Phone: 404-562-5840  
FAX: 404-562-5848  
E-mail: Elkin.W.Parker@usda.gov

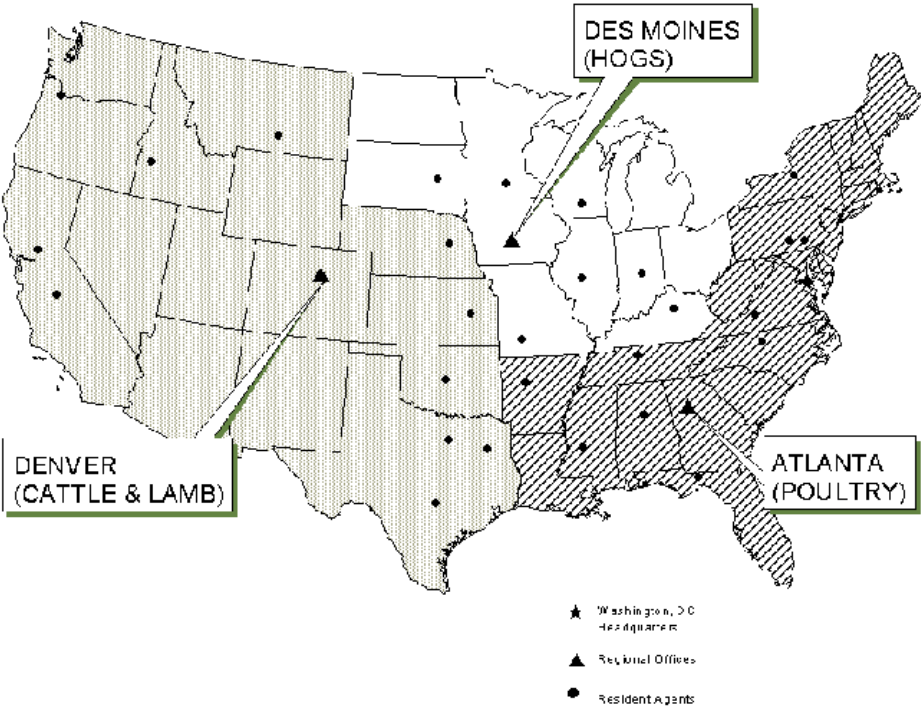
### **Cattle and Lamb**

Denver Regional Office  
1 Gateway Center  
3950 Lewiston Street  
Aurora, CO 80011  
Regional Supervisor: John Barthel  
Phone: 303-375-4240  
FAX: 303-371-4609  
E-mail: John.D.Barthel@usda.gov

### **Hogs**

Des Moines Regional Office  
Federal Building, Suite 317  
210 Walnut Street  
Des Moines, IA 50309  
Regional Supervisor: Jay Johnson  
Phone: 515-323-2579  
FAX: 515-323-2590  
E-mail: Jay.Johnson@usda.gov

**Packers and Stockyards Programs Field Structure**



## Federal Grain Inspection Service

A Federal grain inspection entity was instituted by Congress in 1976 to manage the national grain inspection system, which initially was established in 1916, and to institute a national grain weighing program. The goal of creating a single Federal grain inspection entity was to ensure development and maintenance of uniform U.S. standards, to develop inspection and weighing procedures for grain in domestic and export trade, and to facilitate grain marketing.

### Activities Under the U.S. Grain Standards Act

GIPSA administers uniform, national grain inspection and weighing programs established by the U.S. Grain Standards Act, as amended (hereinafter, the Act). Services under the Act are performed on a fee basis for both export and domestic grain shipments. The Act requires generally that export grain be inspected and weighed; prohibits deceptive practices and criminal acts with respect to the inspection and weighing of grain; and provides penalties for violations.

In administering and enforcing the Act, GIPSA:

- establishes and maintains official U.S. grain standards for barley, canola, corn, flaxseed, oats, rye, sorghum, soybeans, sunflower seed, triticale, wheat, and mixed grain;
- promotes the uniform application of official U.S. grain standards by official inspection personnel;
- establishes methods and procedures, and approves equipment for the official inspection and weighing<sup>1</sup> of grain;

---

<sup>1</sup> Official Inspection. The determination by original inspection, reinspection, and appeal inspection and the certification by official personnel of the kind, class, quality, or condition of grain under standards provided for in the Act; or, the condition of vessels and other carriers or receptacles for the transportation of grain insofar as it may affect the quality of such grain under other criteria approved by the Secretary. (The term "officially inspected" shall be construed accordingly.)

Official Weighing. (Class X Weighing). The determination and certification by official personnel of the quantity of a lot of grain under standards provided for in the Act, based on the actual performance of weighing or the physical supervision thereof, including the physical inspection and testing for accuracy of the weights and scales, the physical inspection of the premises at which weighing is performed, and the monitoring of the discharge of grain into the elevator or conveyance. (The terms "official weight" and "officially weighed" shall be construed accordingly.)

- provides official inspection and weighing services at certain U.S. export port locations,<sup>2</sup> and official inspection of U.S. grain at certain export port locations in eastern Canada along the St. Lawrence Seaway;
- delegates qualified State agencies to inspect and weigh grain at certain U.S. export port locations;
- designates qualified State and private agencies to inspect and weigh grain at interior locations;
- licenses qualified State and private agency personnel to perform inspection and weighing services;
- provides Federal oversight of the official inspection and weighing of grain by delegated States and designated agencies;
- provides review inspection services<sup>3</sup> of U.S. grain in the United States and at certain export port locations in eastern Canada;
- investigates, in cooperation with the USDA Office of Inspector General, alleged violations of the Act and initiates appropriate corrective action;
- monitors the quality and weight of U.S. grain as received at destination ports, and investigates complaints or discrepancies reported by importers; and
- assists U.S. trading partners in developing and improving their grain inspection and weighing programs.

## **Mandatory Services**

Under provisions of the Act, most grain exported from U.S. export port locations must be officially weighed. A similar requirement exists for inspection, except for grain which is not sold or described by grade. Intercompany-barge grain received at export port locations also must be officially weighed. And, the Act requires that all corn exported from the United States be tested for aflatoxin prior to shipment, unless the contract stipulates that testing is not required.

---

<sup>2</sup> Export Port Locations. Commonly recognized ports of export in the United States or Canada, as determined by the Secretary, from which grain produced in the United States is shipped to any place outside the United States. Such locations include any coastal or border location, or any site in the United States that contains one or more export elevators and is identified by FGIS as an export port location.

<sup>3</sup> Review Inspection Service. A reinspection, appeal inspection, or Board appeal inspection service performed when discrepancies are alleged between the true quality of the grain and the inspection results.

Mandatory inspection and weighing services are provided by GIPSA on a fee basis at 38 export elevators (including 5 floating elevators). Under a cooperative agreement with GIPSA, the Canadian Grain Commission provides official services, with GIPSA oversight, at seven locations in Canada exporting U.S. grain. Eight delegated States provide official services at an additional 19 export elevators under GIPSA oversight.

Grain exporters shipping less than 15,000 metric tons of grain abroad annually are exempt from mandatory official inspection and weighing requirements. Grain exported by train or truck to Canada or Mexico also is exempt from official inspection and weighing requirements.

#### **Permissive Services**

Official inspection and weighing of U.S. grain in domestic commerce are performed upon request and require payment of a fee by the applicant for services. Domestic inspection and weighing services are provided by 58 designated agencies that employ personnel licensed by GIPSA to provide such services in accordance with regulations and instructions.

#### **Activities under the Agricultural Marketing Act**

Under the Agricultural Marketing Act of 1946 (hereinafter, the AMA), GIPSA administers and enforces certain inspection and standardization activities related to rice, pulses, lentils, and processed grain products such as flour and corn meal, as well as other agricultural commodities. Services under the AMA are performed upon request on a fee basis for both domestic and export shipments by either GIPSA employees or individual contractors, or through cooperative agreements with States.

#### **FGIS Structure**

FGIS is comprised of 542 full-time, permanent employees and 45 part-time, intermittent, or other employees located at 2 headquarters units, 12 field offices, 2 Federal/State offices, and 7 suboffices. FGIS has headquarters units in both Washington, DC, and Kansas City, MO. Field offices are located in Stuttgart, AR; Sacramento, CA; Cedar Rapids, IA; Wichita, KS; New Orleans, LA; Baltimore, MD; Minneapolis, MN; Kansas City, MO; Grand Forks, ND; Portland, OR; League City, TX; Toledo, OH; and Olympia, WA; thus ensuring the availability of official inspection and weighing services anywhere in the United States. FGIS personnel also are located in eastern Canada to provide inspection of U.S. grain at Canadian ports.

**GIPSA, FGIS**

- Field Offices - 12
- Federal/State Offices - 2
- Suboffices - 7

**Official Agencies - 58**

- Headquarters, including following States: 9
- Designated States - 8
- Designated States - 7

**Designated States and Private Agencies**  
1,446 licensed personnel

**Designated States**  
473 licensed personnel

**Field Offices and Suboffices**  
331 permanent &  
47 other Federal employees

**Direct (Oreigh)**

**Federal (Oreigh)**  
a/Non-Federal Personnel

**Non-Federal (Oreigh)**

**Designated States**  
a/Federal Employees

**Provision of Inspection and Weighing Services by State**

State	Grain				Commodities	
	State Agencies		Private Designated Agencies	GIPSA Locations	State/Private Agencies	GIPSA Locations
	Delegated	Designated				
Alabama						
Alaska						
Arizona						
Arkansas						
California				*		
Colorado						
Connecticut						
Delaware						
Florida						
Georgia						
Hawaii						
Idaho						
Illinois						
Indiana						
Iowa						
Kansas						
Kentucky						
Louisiana						
Maine						
Maryland						
Massachusetts						
Michigan						
Minnesota						
Mississippi						
Missouri						
Montana						
Nebraska						
Nevada						
New Hampshire						
New Jersey						
New Mexico						
New York						
North Carolina						
North Dakota						
Ohio						
Oklahoma						
Oregon						
Pennsylvania						
Rhode Island						
South Carolina						
South Dakota						
Tennessee						
Texas						
Utah						
Vermont						
Virginia						
Washington				*		
West Virginia						
Wisconsin						
Wyoming						

\* Federal/State office.